



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/845,897	04/28/97	IMAM M	77.897

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IM71/0601

EXAMINER
COPENHEAVER, B

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 06/01/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/845,897

Applicant(s)

Imam et al.

Examiner

Blaine R. Copenheaver

Group Art Unit

1771



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-22 are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Election/Restriction

1. This application contains claims directed to the following patentably distinct species of the claimed invention: (I) Type of metal foam to be selected from aluminum, aluminum alloys, titanium, titanium alloys, nickel, nickel alloys, copper, copper alloys, iron, iron alloys, zinc, zinc alloys, lead, lead alloys, silver, silver alloys, gold, gold alloys, platinum, platinum alloys, tantalum, and tantalum alloys. And, (II) Type of polymer to be selected from epoxies, acrylics, silicones, polyurethanes, polyimides, polyvinyls, polycarbonates, natural rubbers, synthetic rubbers, phenolics, polyolefins, polyamides, polyesters, fluoropolymers, poly(phenylene ether ketones), poly(phenylene ether sulfones), poly(phenylene sulfides) and melamine-formaldehyde resins.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-3 and 17-22 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations

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of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

3. While an examination of the claims have not been completed by the examiner, the examiner did notice the following possible 35 USC § 112, second paragraph problems. In claim 23, lines 3-5 are idiomatic in that the phrase "said metal foam being...no smaller than 3 times the diameter of the cells" is vague. Does this refer to the thickness of the metal foam? Or the diameter of the metal foam? Also, in claim 23, line 5, one of the "." (Period symbols) should be deleted.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blaine R. Copenheaver whose telephone number is (703) 308-1261. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Marion E. McCamish, can be reached at (703) 308-3961. The fax numbers for Technology Center 1700 are (703) 305-7718 and (703) 305-3601.


Blaine R. Copenheaver
Patent Examiner
Art Unit 1771

B. Copenheaver
May 26, 1998